

REMARKS

This is a full and timely Response to the nonfinal Office Action of November 1, 2005.

Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this Response, claims 1 through 17 and 19 are pending in this application. Claims 18 and 20 have been canceled. Applicants request that the "Sequence Listing" in Appendix A be entered by this Response and Amendment. The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims. Applicants believe that no new matter has been added and that a new search is not required to examine amended claims.

SEQUENCE LISTING

Applicants have submitted a substitute computer readable form copy of the "Sequence Listing", a substitute paper copy of the "Sequence Listing", and a statement regarding the computer readable copy and the paper copy, to the appropriate mail stop on the same date as this Response and Amendment.

CLAIMS

Double Patenting Rejection

Claims 1 through 17 and 19 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 9 and 11 through 17 of U.S. Patent No. 6,716,634, in view of knowledge allegedly possessed by one skilled in the art.

Applicants note that the pending application having Serial No.: 10/785,621 and Patent 6,716,634 were at the time the invention(s) of the pending application having Serial No.: 10/785,621 was made, owned by Agilent Technologies, Inc..

The above noted paragraph complies with MPEP 706.02(1)(2)(II). Further evidence of common ownership can be ascertained by reference to the assignments for pending application having Serial No.: 10/785,621 and Patent 6,716,634.

In filing the Terminal Disclaimer, Applicants rely upon the rulings of the Federal Circuit that the filing of such a Terminal Disclaimer does not act as an admission, acquiescence, or estoppel on the merits of the obviousness issue. "In legal principal, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection." *Quad Environmental Tech v. Union Sanitary*, 946 F.2d 870,874 (Fed. Cir. 1991); and *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

Therefore, the rejections of claims 1 through 17 and 19 should be withdrawn.


CONCLUSION

Applicants respectfully request that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted ,

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